

Testimony by Lisa Nerenberg, Goldman Institute on Aging

Good afternoon Mr. Chairman and members of the committee.

My name is Lisa Nerenberg. I am Director of the Elder Abuse Prevention Program at the Goldman Institute on Aging in San Francisco. The Goldman Institute serves as the Coordinating Agency for the San Francisco Consortium for Elder Abuse Prevention, which is a network of public and private agencies that have formally agreed to coordinate services, share information, educate ourselves about the problem, and advocate for improved services and policy. The Goldman Institute is also a partner in the National Center on Elder Abuse and we coordinate the Affiliate program of the National Committee for the Prevention of Elder Abuse.

My remarks here today reflect our experiences in San Francisco over the past 15 years and those of our partners and colleagues across the United States. I have had many opportunities to work with other communities and have been impressed by how universal our experiences have been in tackling this complex problem. The cases that we have observed are familiar scenarios to my fellow panelists:

The frail older woman who hires an attendant who systematically begins to isolate her from friends and family. The attendant controls what the older woman eats, when she goes out, and whether she gets the medical care she needs. She turns away visitors and callers. A lawyer is alerted to the problem when the attendant contacts him asking for help in changing the older woman's will. The only unusual aspect of this case is that it is reported. Most, we believe, never come to the attention of those who can help.

Or, there's the elderly man who is hospitalized for a fall and is visited by a neighbor who brings along a notary public. The neighbor convinces the older man to sign over a power of attorney, claiming that he will use it to help out the older man. When the man returns home, he discovers that the neighbor has used the power of attorney to raid his bank accounts.

Then, there's the older widow who has paid off her home through years of hard work and saving but is then persuaded to take out a home equity loan. The pressure may come from family members, lenders themselves, or it may be that she has a genuine need for the cash. All too often these individuals are tricked or misled into taking out bad loans with inflated fees, balloon payments or payments that they simply can not meet. The result, of course, is that they lose the home.

Why is it that the elderly are so vulnerable to financial abuse?

In our mobile society, many older people are separated from their children or trusted

family members. The children may have moved away or it may be the older person who moves into a new neighborhood or retirement community.

For those of us who work in the field of aging, our commitment is to keep our clients out of nursing homes so that they can live out their later years in familiar surroundings. That's how most of us would choose to live.

But what that means is that increasingly frail individuals are living in the community and that trend will continue. These individuals who rely on others for their very survival are extremely vulnerable. Most care is provided by family members and most are doing an admirable job.

But to ensure the security of these frail older individuals, to guard against their being preyed upon by predatory individuals or even troubled family members, there need to be protections, safety valves. We as a society need to exercise vigilance. The protective systems that we currently have in place are vastly inadequate.

States across the country have passed laws to enlist the support of professionals and the public in identifying elder and dependent adult abuse. Cases are typically reported to adult protective service programs for investigation and follow up.

Cases are responded to in one of three ways: Because adult protective services are voluntary, in most instances victims are free to decide whether or not they want help.

If, however, the victim is so impaired mentally that they are incapable of consenting or refusing help, the case is usually referred on for assessment to determine whether or not a surrogate decision-maker should be assigned.

If the abuse is so serious that it constitutes a crime, society assumes the right to intervene even without the victim's consent and law enforcement will become involved. While it sounds clear cut, it isn't. For one thing, we still have a lot to learn about mental capacity, particularly when it relates to financial crime and abuse. The issue of undue influence further obscures what is and what is not free choice.

For persons needing surrogate decision-makers to stop abuse, there is often nobody available. The supply of public guardians is inadequate and in most community, the resources for investigating and monitoring guardians are inadequate. In recent years, we've witnessed the emergence of a new field - private professional guardianship - but the field is as yet virtually unregulated.

The criminal justice system's response is inconsistent. Prosecution is common in some communities and virtually unheard of in others.

Financial crimes pose countless challenges for law enforcement. To give you an example, investigating a financial crime may involve piecing together what an older

person understood when they signed a document like a will, a trust, or a power of attorney. The document may have been signed years ago and so the investigator must establish what the person understood at that earlier point in time.

Critical evidence is often in the hands of the perpetrator or it may be contained in bank records; with the regionalization of the banking industry, the records are likely to be stored in another state, which poses problems in getting search warrants.

There are other jurisdictional problems. Some financial crimes are under local jurisdiction, while others are under state or federal jurisdiction. Coordination between these entities is lacking. Training is needed at all levels of law enforcement and to other members of the social service network.

There are also few incentive for victims to file criminal charges. Many are embarrassed or ashamed, and some don't want to see their offenders go to jail. Many simply want to recover what they've lost. It's commonly believed, and understandably, that criminal restitution is unlikely to be collected.

These are just a few of the systemic issues.

But perhaps the most serious obstacle in our battle against this type of abuse is the fact that financial crime seems to be viewed by many as less devastating than other types of crime and so it is low on the priority list for some police agencies and prosecutors' offices.

The truth is that losing the fruits of a life's labors, one's life savings, one's legacy, can be devastating, often leading to depression, despair, and even suicide.

Last fall, in collaboration with the U.S. Attorney's office, the National Center on Elder Abuse, and several local agencies, we held a conference on elder financial crimes, which we called the *Forgotten Victims of Crime* in reference to this inattention. During the day, we convened several roundtable discussions, which included prosecutors, peace officers, victim advocates, and representatives from federal investigative and regulatory agencies to discuss the challenges they face in handling financial crimes. In the six hours of tape we collected, we heard an earful. We will be publishing a report in the next few months summarizing these discussions.

I'd like to end by thanking this Committee for its leadership in bringing this very important issue to light and would like to offer our assistance in the future.